

June 2003

## *Frequently Asked Questions*

### ***Implementation of Watershed Rehabilitation***

---

The Watershed Rehabilitation Amendments to the Watershed Protection and Flood Prevention Act (PL 83-566) authorizes the USDA Natural Resources Conservation Service (NRCS) to work with local communities and watershed project sponsors to address public health and safety concerns and potential adverse environmental impacts of aging dams. The following provides answers to frequently asked questions concerning implementation of watershed rehabilitation.

**Q. Who may submit a request for assessment of an existing dam to determine if it is eligible for rehabilitation assistance?**

- A.** At least one of the project sponsors with Operation and Maintenance responsibility for the specific dam.

**Q. How can a request for assistance for rehabilitation be made?**

- A.** Submit Form SF-424 "Request for Federal Assistance;" additional information must be attached to the application. All current sponsors of the watershed project must sign the application.

**Q. How is the State Dam Safety Agency involved in evaluation of an application?**

- A.** Information received from the State Dam Safety Agency must be attached to the application for assistance. The State Dam Safety Agency will also be requested to provide input in evaluating the applications received. This information will be considered in setting funding priorities.

**Q. What standards will be used if a dam is upgraded to meet current criteria?**

- A.** NRCS and State Dam Safety criteria will be used, which ever is more stringent.

**Q. How will ranking of applications be accomplished?**

- A.** The NRCS State Conservationist assigns a ranking priority for each application received in their state after evaluating the following:
- Probability of failure considers the design features and existing condition of the dam. A "failure index" is computed; the higher the index, the greater the probability of dam failure.
  - The consequence of failure considers factors such as potential for loss of life, loss of lifelines (transportation, water supply, utilities, etc), environmental factors (threatened or endangered species, contaminated sediment, riparian area, wildlife, wetlands, etc.) adverse impacts on cultural resources, historic preservation and adverse economic impacts due to loss of flood control.
  - Input from the State Dam Safety Agency.

**Q. What plan document is needed for watershed rehabilitation plans?**

- A.** The planning document will generally be a supplement or revision to the current watershed work plan. In the case of Pilot watersheds, Resource Conservation and Development and some PL-534 projects, existing plans may not be available and a new plan may need to be prepared.

**Q. What alternatives are considered during the planning of a rehabilitation project?**

**A.** Planning is completed using established procedures for watershed planning. Minimum alternatives to be considered include: no action, decommissioning, rehabilitation to meet current criteria, and the National Economic Development Plan. Also, nonstructural alternatives will be considered (relocation of residences, easements or other controls on downstream development, etc.). Economic, social, and environmental impacts are evaluated.

**Q. Can individual components of an existing dam be replaced or modified to eliminate an immediate problem even though the rehabilitation project will not extend the design life of the entire dam beyond its original life?**

**A.** No, the statute requires extension of the service life of the dam.

**Q. Will relocation of downstream dwellings be an eligible component of a rehabilitation project to avoid need for costly upgrade of a low hazard dam to high hazard criteria?**

**A.** Yes, if relocating is part of the most cost-effective alternative selected by sponsors.

**Q. Can a rehabilitation project consist of only relocating downstream hazards and enacting controls on future development within the breach inundation area without doing any work on the dam itself.**

**A.** No. The statute requires that rehabilitation must include extending the service life of the dam and meet applicable safety and performance standards. Therefore, the completed rehabilitation project must include work necessary to either remove the dam or assure the dam meets all current standards and will function for at least another 50 years.

**Q. Can purchasing development rights or conservation easements to control future downstream development be considered as a part of the rehabilitation project?**

**A.** Yes. Purchase of conservation easements and development rights can be used to avoid the need for upgrading of the dam to high hazard criteria. Since they are considered land rights they must be secured by the sponsors as part of their 35% share of costs.

**Q. Can a dam be decommissioned or removed as part of a rehabilitation project?**

**A.** Yes, in fact decommissioning must be an alternative considered in evaluation of each rehabilitation plan.

**Q. If other natural resource needs are addressed during the rehabilitation project (municipal water supply, wildlife and wetland habitat enhancement, etc.) what federal cost-share will be applied to the additional costs to address these needs?**

**A.** The law authorizes 65% federal cost-share for rehabilitation measures only. If other natural resource needs are addressed, the federal cost-share for other project purposes will be according to the Watershed Protection and Flood Prevention Act (PL-566) provisions. Other programs can also be used.

**Q. Are local communities, farmers, and ranchers required to install soil and water conservation practices in the watershed above each of the dams?**

**A.** Conservation practices are required to be installed within the drainage areas above the dams to protect them from excessive soil erosion and sedimentation. Many of these conservation practices are also aging and must be rebuilt. A minimum of 50 percent of the needed conservation practices and management techniques must be implemented prior to a dam being constructed or rebuilt.

**Q. What is included in the total cost of a rehabilitation project?**

- A.**
1. Acquisition of land, easements, and rights-of-way. This may include:
    - The area needed for construction of the dam and the resulting reservoir.
    - Access route for operation and maintenance.
    - The breach inundation area to control future downstream development.
    - Other areas required to ensure proper functioning
  2. Project administration.
  3. Technical assistance, if provided by the project sponsors.
  4. Costs of construction and/or relocating, removal, or flood-proofing of at risk property in the breach inundation area.

- Q. Can conservation easements or floodplain easements for the downstream breach inundation area be purchased using other federal programs such as the Wetland Reserve Program and Emergency Watershed Program?**
- A.** Yes, provided the applicable program eligibility criteria are met.
- Q. What is the federal cost-share for rehabilitation projects?**
- A.** Federal funds are limited to 65% of the total rehabilitation costs, but shall not exceed 100% of the actual construction costs.
- Q. Who covers the remaining costs?**
- A.** Local project sponsors are responsible for funding the remaining 35 percent of the project. These funds may include cash or "in-kind" costs for the value of land rights, project administration, and other planning and implementation costs associated with the project.
- Q. Can the entire sponsors' contribution of 35% come from in-kind contributions?**
- A.** Yes.
- Q. Will the cost of NRCS staff time be considered a part of the "total cost" of the rehabilitation project?**
- A.** No.
- Q. If sponsors provide technical assistance (using either their own forces or acquired professional services) can the cost of these services be considered part of the "total cost" of the rehabilitation project and be credited to their 35% cost-share?**
- A.** Yes, if it is documented in a Memorandum of Understanding and NRCS agrees that it is an eligible "in kind contribution."
- Q. If the project sponsors hire an engineering firm to plan, design, or provide other technical assistance prior to selection and funding of the planning of the project, can the cost of these services be credited to the local 35% cost-share?**
- A.** Yes, if it occurred after November 9, 2000, it is documented in a Memorandum of Understanding, and NRCS agrees that it is an eligible "in-kind contribution" that should apply toward the 35% local cost-share requirement. The sponsor will be informed that there is no guarantee on funding of the project, the priority of the project, or that the alternative being considered on will actually be selected; therefore, the contributions may not actually be credited.
- Q. Will the value of the current land rights be credited as a local in-kind contribution for the rehabilitation project?**
- A.** No. The value of the current land rights may be credited only when the original land rights expired at the end of the original evaluated life of the project. Otherwise, only the value of land rights in addition to those acquired for the current project will be used.
- Q. Are there costs that are not considered part of the "total project cost"?**
- A.** Yes; the cost of all permits and acquiring of any mineral rights are the responsibility of the project sponsors and are not included in the total cost of the project nor can they be credited to their 35% cost-share.
- Q. Who is responsible for operation and maintenance of the rehabilitated dam?**
- A.** The watershed project sponsors are required to sign an agreement committing them to operate and maintain the rehabilitated dam for the evaluated life of the project (usually 50 to 100 years).

---

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.